

REMARKS

The Applicants expressly acknowledge withdrawal of the previous rejection based upon the filing of the Amendment with the Request For Continued Examination. The objection to claims 27 and 28 is acknowledged. Accordingly, cancellation of claims 27 and 28 is respectfully requested.

Claims 1-2, 4-8, 14-15 and 27-29 have been rejected as being obvious in view of the patent to Brinkmeyer et al., U.S. Patent No. 5,940,007 in view of Madau, U.S. Patent No. 6,593,856. The remaining claims in the first set of claims have been rejected in view of the patents to Sunan et al., Dykema et al., Funk, Welty, Huang et al., and Farris et al. The second set of claims, claims 50-53, have been rejected as being obvious in view of the aforementioned patent to Brinkmeyer and the patent to Welty, U.S. Patent No. 5,109,222.

Upon consideration and review of the application, the Applicants respectfully request amendment to independent claim 1. Specifically, revised claim 1 more positively recites a motorized barrier wherein the operator controls the motorized barrier. And claim 1 now sets forth that both the operator and device can transmit selected wireless operational signals. Finally, the claim sets forth that for collective operation of both the operator and the device, the operator re-transmits the selected wireless operational signals to the device.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Last, the prior art reference (or references, when combined) must teach or suggest all the claim limitations. Moreover, the teaching or suggestion to make the claimed combination and the reasonable expectations of success must both be found in the prior art, and not based on the Applicant's disclosure. *In re Vaeck*, 947 F2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

In regard to establishing a *prima facie* case of obviousness, the initial burden is on the Examiner to provide some suggestion of the desirability of doing what the inventor has done. "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliably suggest the claimed invention or the Examiner must present a convincing line of reasoning as to why the artisan would have

found the claimed invention to have been obvious in light of the teachings of the references." *Ex parte Clapp*, 227 U.S.P.Q. 972, 973 (Bd. Pat. App. & Inter. 1985).

Madau teaches a Home Automation System (12). Although the Home Automation System can control a garage door operator, it is noted that the Home Automation System is separate and apart from the garage door operator. Indeed, at column 1, line 50, Madau states "it would be desirable for such a device (*i.e.* the Home Automation System) to work independently of the existence of an electric garage door." (clarification added) In distinct contrast, claim 1 now sets forth that during the collective operation of both the operator and the device, the operator re-transmits signals to the device. Such a feature is clearly taught away from in the teaching of Madau, nor is such a feature taught or suggested in the patent to Brinkmeyer. Accordingly, each and every element of claim 1 is not taught by the cited references or by the art made of record. Moreover, the proffered combination of references teach away from their combination with one another. Therefore, it is respectfully submitted that a *prima facie* case of obviousness cannot be made for claim 1 and, as such, claim 1 is allowable along with all claims depending therefrom.

Upon consideration and review of the application, the Applicants respectfully request an amendment to independent claim 50 so that it now more positively recites the barrier operator. As such, the barrier operator is the component which controls the motorized barrier and receives and transmits wireless operational signals. As defined in the specification, the barrier operator 12 and it's associated controller 26 controls the movement and other functions of the door and related features. In Welty, which is similar to the teachings of the Madau reference discussed above, a central computer 10 is used to send signals to various appliances, including a garage door operator, in a home setting. However, absolutely no teaching or suggestion is provided in Welty that the barrier operator, or garage door as shown in Fig. 5 of the Welty patent, receives and transmits signals. Nor does the proffered combination of references teach such a feature along with all the other limitations of the claim. Therefore, claim 50 is allowable as well as all claims depending therefrom.

In regard to dependent claims 18-23, the references to Brinkmeyer, Madau, Dykema and Welty are used to assert that the claims are obvious. As discussed in regard to independent claim 50, Welty does not teach or suggest a garage door operator with a transmitter. As such, the proffered combination used in rejecting claims 18-23 is improper

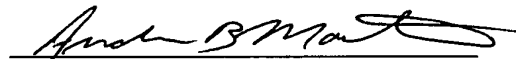
and it is respectfully requested that this rejection be withdrawn. It is also noted that the patent to Welty is also used in rejecting claims 24, 30 and 31. As such, the rejection of those claims should also be withdrawn.

In view of the foregoing amendments and arguments presented herein, the Applicants believe that they have properly set forth the invention and accordingly, respectfully request the Examiner reconsider and withdraw the rejections provided in the last Office Action. A formal Notice of Allowance of claims 1-24, 26, 29-37 and 50-53 is earnestly solicited.

In the event that a fee required for the filing of this document is missing or insufficient, the undersigned Attorney hereby authorizes the Commissioner to charge payment of any fees associated with this communication or to credit any overpayment to Deposit Account No. 18-0987. If a withdrawal is required from Deposit Account No. 18-0987, the undersigned Attorney respectfully requests that the Commissioner of Patents and Trademarks cite Attorney Docket Number **WAY.P.US0075** for billing purposes.

Should the Examiner deem a telephone call to be beneficial in resolving any remaining matters or to place the claims in better form for allowance, the same would be greatly appreciated.

Respectfully submitted,



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